

Order

Michigan Supreme Court
Lansing, Michigan

November 23, 2011

Robert P. Young, Jr.,
Chief Justice

143346

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

WALTER J. SHAW,
Plaintiff-Appellee,

v

SC: 143346
COA: 300389
WCAC: 09-000090

EATON CORPORATION and OLD
REPUBLIC INSURANCE COMPANY,
Defendants-Appellants.

On order of the Court, the application for leave to appeal the May 23, 2011 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

MARKMAN, J. (*concurring*).

Although I am troubled by the magistrate's findings, particularly with respect to plaintiff having suffered a mental disability under MCL 418.301(2), given that the only testimony on this point was that plaintiff felt "overwhelmed" and "anxious" due to his employer's purported lack of concern regarding his complaints that a fellow employee had not been properly trained, and plaintiff's psychiatrist's opinion that such feelings prevented plaintiff from holding gainful employment, I nonetheless reluctantly concur with the instant order of denial. For purposes of review in this Court, factual findings by the magistrate and the WCAC are treated as conclusive, in the absence of fraud. *Mudel v Great Atlantic & Pacific Tea Company*, 462 Mich 691, 701 (2000).



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 23, 2011

Corbin R. Davis

Clerk